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Sent: 3/11/2022 5:29:23 PM
To: DA Submission Mailbox
Subject: TRIMMED: Online Submission

03/11/2022

MR Richard Osborn
8 The Serpentine - 8 ST
Bilgola Beach NSW 2107

RE: DA2022/1494 - 2 A Allen Avenue BILGOLA BEACH NSW 2107

Additional evidence for Osborn submission.

we refer to the Statement of Environmental Effects and specifically the DCP Compliance Table. The consultant admits the proposed dwelling fails to comply on FIVE criteria. Not one but five. He claims these regulations should be disregarded "on merit". We strongly object to this arrogant, dismissive and subjective attempt to bypass the rules.

The consultant admits the application fails on Open Space, Side Boundary Setbacks, Rear Boundary Setback, Building Envelope - Height, and Landscaping.

Specifically, point by point

P1.7 Private Open Space.

Minimum 80m² of private open space per dwelling at ground level, with no dimension less than 3 metres. No more than 75% of this private open space is to be provided in the front yard.

The proposal completely fails on this requirement as over 90% of open space is located in front of the proposed house. Furthermore, it is proposed to reduce the rear boundary distance from the dwelling to only 1 metre, further reducing open space to the rear. The owner claims this is acceptable on "merit". But this is not acceptable to neighbours. These regulations exist for good reason. The building is too close to the rear boundary and fails to comply.

D3.7 side and rear building lines

Rear setback requirement is 6.5m.

The proposal calls for a rear setback of only 1m and 3m. they also state this is "generally consistent" with the existing building setback. It is not. Most of the existing building is set back 6m.

Furthermore, once the existing dwelling is demolished the setback from the rear boundary must revert to 6.5m.

They go on to state...

"The rear setbacks of the proposed dwelling building are generally consistent with those of the existing dwelling, which ensures that impacts associated with the development are appropriately minimised."

The opposite is true as the height of the proposed building is much higher than that existing. So the combination of a closer building to the rear boundary and far greater height means the impact will be maximised and increased.

DC3.9 Building Envelope

The development will have a major impact on our view as already covered in the OSBORN submission. The height of the dwelling in excess of that permitted and the proposed

landscaping of tall *Livistonia Australis* palms will totally block any view sharing they were claiming to offer.

They also claim that what they are proposing is minor...

"The minor non-compliance does not result in any adverse impacts upon the amenity of adjoining properties and does not detract from consistency with the outcomes of this control. As such, noncompliance with the building envelope control is supportable on merit"

This is no justification for non compliance which will have a major affect on our views, privacy and noise and light intrusion. It is grossly misleading to claim this is a minor non-compliance. The requested variation in height is not small. In fact it is exceedingly large.

In this regard, it has been determined that the proposed roof form breaches the height standard by up to 3.5 metres (43%) at its highest point reducing to approximately 300mm along its south eastern edge. The south eastern edge of the Level 3 terrace and associated landscape planter also breach the standard by up to 1.2 metres (18.75%) with the building height breaching elements depicted in in the building height blanket diagram.

D3.11 Landscaped Area - Environmentally Sensitive Lane

Required landscaping is 60% of the site. Proposed landscaping is only 16%.

This does not comply.

The proposal claims to be increasing the landscaping over the existing dwelling. But until recently there was substantial planting until a year ago when the new owner tore up the ground to put in in a tennis court. We received no advice of this intention from council although I now notice a DA to put up a fence. So a significant amount of landscaping disappeared. We understand there is a question as to the legality of the tennis court construction.

We also note that a lot of the proposed landscaping will be on concrete slabs with no possibility of water reaching down to the water table. It appears that there is no merit in the landscaping proposal and it does not comply.

Clause 4.6

Clause 4.6 of PLEP 2014 provides a mechanism by which a development standard can be varied.

To do so the proposal has to pass the following tests;

A) To ensure that any building, by virtue of its height and scale, is consistent with the desired character of the locality.

This is NOT the case with this development. The height far exceeds neighbours and virtually every square metre of the block is built on. The character of the locality is for low rise BEACH HOUSES, typically two storey, no rooftop swimming pools.

Fundamental to the development is the tennis court. The so called existing tennis court is only a year old. The previous use was garden.

B) To ensure that buildings are compatible with the height and scale of surrounding and nearby development.

This is also NOT the case with this development.

This grand house with the name "Wimbledon House" is bigger and taller and with construction to every corner be it above or below ground level.

C) To minimise any overshadowing of neighbouring properties.

There will be heightened overshadowing of 2 Allen Avenue

D) To allow for the reasonable sharing of views.

There has been no consideration given to the views to the southeast from 10 The Serpentine. Furthermore the attempt to demonstrate view sharing from number 8 The Serpentine fails totally because of the intention to plant high palm trees to further block views.

E) To encourage buildings that are designed to respond sensitively to the natural topography. This design states that it assumes certain ground levels which are not evident and are totally misleading. If the design was to adhere to this requirement it would be a two storey dwelling.

F) To minimise the adverse visual impact of development on the natural environment heritage conservation areas and heritage items.

The sheer bulk of the intended development MAXIMISES not minimises the effect on the environment.

We ask council to consider any variation very seriously as council are using their delegated authority (from DPE) to determine. This DA is complex but the non-compliance with controls are very significant.

Such a development approval would set a dangerous precedent for future developments in Bilgola Beach to flaunt the controls and make a mockery of council regulations.